

## MINUTES

### P & Z COMMISSION HEARING January 15, 2004

#### ATTENDANCE P & Z Commissioners

##### ATTENDED

1. John Dalton, Chairman
2. Frank Damato
3. Wendell DeCross
4. Bob Bailey
5. Gary Nelson
6. Drew Shumway
7. Roy Solomon

##### ABSENT

Micah Lomaomvaya  
Tommy Joe

##### Staff Attendance

1. David Ashton, Director of Development Services
2. Lissa Davis, Planner II
3. Lance Payette, Deputy County Attorney
4. Mary Bradley, Secretary

Meeting held at the Board of Supervisors Chambers, Holbrook, Arizona - Time 6:03 p.m.

John Dalton called the meeting of the Navajo County Planning & Zoning Commission to order, and explained the meeting procedures to the public. Mr. Dalton then led the Pledge of Allegiance.

Item # 1 **ZONE CHANGE:** Discussion and possible Commission action on a request **Mark & Kathleen Rens** for a Zone Change from R1-10 (Single-Family Residential – 10,000 square foot minimum lot size Zoning District) to R-3 (Multiple-Family Residential Zoning District) on the subject property, APN 212-10-104 in Township 9North, Range 22 East, Section 9 SW NE of the Gila and Salt River Meridian, the Lakeside area. **Lissa Davis** gave a history of the project and presented maps showing the general area and the site plan. Ms. Davis indicated that this property was described as Multiple Family in the original CC&R's of the Subdivision. This classification was never recorded on the County's zoning map. The applicants purchased the property with the knowledge from the CC&R's that it was zoned Multiple Family. They would like to have it changed so they can build a duplex or tri-plex. Ms. Davis said that they had received one letter in opposition, which is not in the 300' radius. Staff is recommending approval. **Joanne Hutton** stated that she is the representing the Ren's since they live in Arkansas. Ms. Hutton indicated that if this is approved that the multi-housing would not be low income. Ms. Hutton indicated that Mr. Ren is a doctor and he plans on having the nurses that work the emergency room for two months at a time as potential tenants. **No one came forward to speak in favor or opposition regarding this matter.** **Wendell DeCross** read from the applicant's letter of intent saying that it was described as zoned for multifamily housing in the subdivision CC&R's when they bought it some years ago. It was their intent then to eventually build a multi-family rental property and it was their understanding that was the actual zoning. Mr. DeCross asked what the original zoning was when they purchased it. **Lissa Davis** said that the original CC&R's which is dated June 22, 1964. Ms. Davis read from the original CC&R's from 1965, which states that the zoning was multi-family. **Mr. DeCross** said that he visited the site and there are other multi-family lots. Mr. DeCross said that he is perplexed with people buying property and not knowing what they are buying. **Wendell DeCross** said that he is in favor of this and made a motion to approve the Zone Change. **Gary Nelson** seconded the motion. Motion unanimously carried.

Item # 1 **AMENDMENT TO A SPECIAL USE PERMIT:** Discussion and possible Commission action on a request by the **Linden Fire District** to increase the height of a cellular communications tower on the subject property, APN: 209-20019 in Township 10 North, Range 21 East, Section 4 of the Gila and Salt River meridian, the Linden area. **Lissa Davis** gave a history of the project and presented maps showing the general area and the site plan. Ms. Davis reminded the commission on the last meeting (November 2003) when they approved a Special Use Permit for a 70' cellular communications tower on the Linden Fire Department property. Since that time, the Arizona Corporation Commission approved the expansion of the Vision One project. Cellular One is asking that an Amendment to the original Special Use Permit be granted to increase the height of the tower from the approved seventy to 120-feet. This is an additional increase of 50-feet. Staff had not received any letters in favor or opposition on this request. Staff is recommending approval with the deletion of stipulation number seven. **Carl**

**Wibel** is the representative for Cellular One. Mr. Wibel said the Corporation Commission approved for them to expand their low-income project for providing wireless services. Mr. Wibel said that he and his engineer felt the easiest way to do this was to request an addendum to the original Special Use Permit to increase the height of the tower. Mr. Wibel said that he spoke with Chief Price of the Linden Fire Department and Mr. Pearce, Junior, and Senior, who owns the property to the west (Jr.) and north (Sr.) of the area. They did get letters of support from Linden Fire Department and Mr. Pearce Junior. Mr. Pearce Sr. did not sign the letter, but said that he is in favor of the tower and does not have a problem with the tower and he understands that they (Cellular One) assume the liability for anything with that tower. Mr. Wibel indicated that the structure is engineered to withstand 80 miles per hour-sustained winds with a half of inch of ice and gust of 120 miles with a half-inch of ice. **No one came forward to speak in favor or opposition regarding this matter.** **John Dalton** expressed concerns with the fall zone encroaching on a neighboring property and not having anything in writing regarding liability. Mr. Dalton expressed concern about them setting a precedence in reference to the fall zone and requiring everyone else to have one. **Lance Payette** commented that a fall zone is not legally required and is just a measure of protection. Mr. Payette indicated that if Cellular One is adequately insured then it is perfectly fine. Mr. Payette explained that the fall zone is in the hand of the property owner who does not want to give the easement for the fall zone, so he is assuming the risk. Mr. Payette suggested to staff that the fall zone should be look at on a case-by case basis. **Lissa Davis** said with her phone conversation dealing with Mr. Pearce Sr. he indicated that he was not worried about something happening and if something did happen he knew that Cellular One would take care of it. **Wendell DeCross** said that he visited the property. Mr. DeCross said that there are two water tanks and a propane tank within the 120-feet of the fall zone and he is also concerned with the liability issue. **Carl Wibel** said that he met with the Fire Chief of Linden and they did not have concerns with catastrophic failure and they did sign a letter to this effect. Mr. Wibel said that Cellular One has a million dollar liability insurance policy. **Lance Payette** reiterated that he didn't believe that there would be a serious concern about liability on the part of the County if the fall zone requirement were waived. A motion was made by **Wendell DeCross** to approve the Amendment to the Special Use Permit with the stipulations stated by staff with the elimination of stipulation number seven. **RECOMMENDED STIPULATIONS:** *1 This Special Use Permit shall permit a wireless communication tower, 120 feet in height, on the subject property. 2. The permitted Special Use shall be allowed to occur only in the location shown on the approved site plan. 3. This Special Use Permit shall run with the land. 4. The approval of the Special Use Permit is contingent upon successful review of the structural details of the subject tower and that a building permit for such tower is issued. 5. The applicant must meet all State and Federal requirements concerning communication towers prior to any building permits being issued. 6. If the tower is no longer being utilized, the owner shall cause at his expense the removal of all components of this tower within a 90-day period. 7. The leased area around the ground equipment shall be enclosed with a 6-foot high fence.* The following commissioners voted in favor of the motion: **Drew Shumway, Bob Bailey, Frank Damato, Roy Solomon, Gary Nelson** and **Wendell DeCross**. Voting against the motion was **John Dalton**. Motion carried.

Item #3 **AMENDMENT TO THE NAVAJO COUNTY SUBDIVISION REGULATIONS & REQUIREMENTS:** Discussion and possible Commission action regarding an amendment to the Navajo County Subdivision Regulations & Requirements, amending Section 3.6, 8.2 and 8.4. referring to the curb and gutter requirements and definitions affecting such. **Dave Ashton** made the presentation at the request of Richard Young who was unable to be here this night. Mr. Ashton referred to the memo sent by the Public Works Department to Development Services. They are asking to delete the curb and gutter requirements. This requirement has been waived for every subdivision since 1994, and is an added expense and also causes problems with pushing snow. Mr. Ashton addressed the changes of Section 3.6 – Curbs and Gutter Requirements. Staff recommends approval. **Wendell DeCross** said that he is opposed to waiving the requirements and this should be done on case-by-case basis. Mr. DeCross said that he would hate to see something eliminated that one-day they might be required. **John Dalton** said that they always have waived the requirements and would like for them to leave in that “curb and gutters may be required” rather than “should be required”. Mr. Dalton was not in agreement with cutting the street size down. **Roy Solomon** said that he would rather see them require shoulders than curb and gutters. **Frank Damato** indicated that he likes the regulation as it is. **Dave Ashton** suggested to the commission that they postpone this until next month and so that Mr. Young can explain this in more detail. A motion was made by **Frank Damato** to leave the Subdivision Regulation as it is without the changes. **Gary Nelson** seconded the motion. The following commissioners voted in favor of the motion: **Drew Shumway, Bob Bailey, Frank Damato, John Dalton, Gary Nelson**, and **Wendell DeCross**. Voting against the motion was **Roy Solomon**. Motion carried.

Item #4 **AMENDMENT TO THE NAVAJO COUNTY ZONING ORDINANCE:** Discussion and possible Commission action regarding an amendment to the Navajo County Zoning Ordinance, adding Section 2519 – Kennels **Lissa Davis** said that they are not contemplating action being taken since this is considered a work session. Ms. Davis presented the commission with a newspaper article on Montana Collies, and because of this article Supervisor DeSpain requested that our department write a kennel ordinance. Ms. Davis said that there are no kennel ordinances in the state and would like the commission to give them direction on whether or not they would like them to keep going on this. Ms.

Davis said that Mr. Payette had given her some good input on clarification. **Lance Payette** stated that this ordinance is ridiculous as written. **Lissa Davis** said that what happened on the Montana Collie case was that there were some folks that were in route from Nicda, Alaska to Woodruff with 180 dogs and because of this Supervisor DeSpain would like some sort of policy or ordinance to prevent this type of situation from happening here. **Lance Payette** said that the way this is written you could have two dogs, a cat and two cows and you would have a kennel. Mr. Payette went on to say all of this because they are trying to address the case in Montana where the people were prosecuted because of animal cruelty and they already have animal statute on the books. Mr. Payette said that to make everyone who wants to have animals in Navajo County to come in and pay seventy-five dollars and have a hearing in front of the Board of Supervisors and then expose their property to inspections at anytime by us when we already have an animal cruelty statute on the books is ludicrous. **Roy Solomon** agreed with Mr. Payette comments. **John Dalton** said that they already have a process in place, which would address this, which is the Special Use Permit. **Wendell DeCross** agreed with Mr. Payette and said that State Statutes already covers kennels. **Roy Solomon** agreed with the other commissioner's assessments and also said that the Board of Supervisors does not have the time to address this. A motion was made by **John Dalton** to send a letter to Supervisor J. R. DeSpain saying that this issue is already covered under State Statute. **Roy Solomon** seconded the motion. Motion unanimously carried.

Item #5 **WORK SESSION** – Update on Comprehensive Plan. **Lissa Davis** said that on December 15, 2003 the Board of Supervisors remanded the comprehensive plan for clarification of the language. Ms. Davis said that under the direction from the City Manager they have prepared a timeline of events that will happen with the plan. Ms. Davis encouraged all the Planning & Zoning commissioners to attend the work session on February 2<sup>nd</sup> at 1:30 p.m. in the Board of Supervisor's room. The commission asked staff to remind them prior to the meeting.

Item #6 **Possible approval of November 20, 2003 Minutes.** A motion was made by **Frank Damato** to approve the minutes. **Drew Shumway** seconded the motion. Motion unanimously carried.

Item #7 Commissioners' comments and/or directions to staff. Commissioners may use this time to offer additional comments regarding any item on this agenda or any other topic; and the Commission may direct Development Services Department staff to study or provide additional information on topics of the Commissions' choosing. **Wendell DeCross** *asked staff if they monitored the stipulations and were they enforcing them. Mr. DeCross cited two instances when the stipulations were not enforced and said that if there are stipulations then they should be monitored and enforced by staff. Mr. DeCross asked staff how long do we give the applicant the time to meet the stipulations. Dave Ashton* said that they should normally meet the stipulations by the time they open for business. **Frank Damato** *suggested that the time frame for the stipulations to be met should be brought up at the Planning and Zoning meeting with the applicant and the commission agreeing on the time limit. Mr. Damato also agreed with Mr. DeCross about enforcing and monitoring the stipulations. Mr. Damato said that the commission would like them to develop some type of tracking method for the stipulations so that they would be able to review it.*

With there being no further business to come before the Planning and Zoning Commission, the meeting was adjourned at 7:48 p.m. **Drew Shumway** made a motion to adjourn. **Frank Damato** seconded the motion. Motion unanimously carried.

NOTE: a copy of the agenda background material provided to the Commission Members (with exception of material relating to possible executive sessions) is available for public inspection at the Development Services Office, Navajo County Complex, Holbrook, Arizona, Monday through Friday, 8:00 a.m. to 5:00 p.m.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Chairman, Navajo County  
Planning & Zoning Commission

ATTEST:

\_\_\_\_\_  
Secretary, Navajo County  
Development Services